

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Sergey ZHELYATDINOV,	:	
Petitioner	:	
	:	
v.	:	CIVIL NO. 02-CV-4318
	:	
John ASHCROFT,	:	
Respondent	:	
	:	

GOVERNMENT'S MOTION TO STRIKE "EX REL."  
FROM THE CAPTION OF CASE

TO THE CLERK:

The United States Attorney General moves to strike the term "United States ex rel." from the caption.

Black's Law Dictionary (6th ed. 1990) defines a suit brought *ex relatione* as a "legal proceeding[ ] which [is] instituted by the attorney general (or other proper person) in the name and behalf of the state, but on the information and that the instigation of an individual who has a private interest in the matter...." The United States of America is not the petitioner in this action, and has not brought the action arising "ex rel." to Zhelyatdinov. Moreover, even if captioned "Zhelyatdinov ex rel. United States," this alien lacks standing to bring a habeas action in the name of the United States of America against the

Attorney General. United States of America (ex relatione) Christopher J. Dattola (ex parte) v. National Treasury Employees Union et al., 86 F.R.D. 496 (W.D.Pa. 1980).<sup>1</sup>

The "ex rel." designation is improper and misleading, and should be stricken.

Respectfully,

PATRICK L. MEEHAN  
United States Attorney

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JAMES G. SHEEHAN  
Assistant United States Attorney  
Chief, Civil Division

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STEPHEN J. BRITT  
Assistant United States Attorney

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<sup>1</sup> Some Supreme Court cases from the mid-1900s involving aliens were captioned "United States ex rel." even in cases where the United States had not brought the action. See e.g. United States ex rel. Knauff v. Shaughnessy, 1950, 338 U.S. 537, 542-544, 70 S.Ct. 309, 94 L.Ed. 317 (1950). There was no legal reason for this designation then, and there is none now. In modern jurisprudence, cases involving the United States ex relatione (either as plaintiff or relator) are generally limited to *qui tam* actions brought under the False Claims Act, 31 U.S.C. §§ 3729-3733, and government contract cases brought under the Miller Act, 40 U.S.C. §§ 270a, 270b. Nonetheless, the gratuitous use of "United States ex rel." continues in favor with *pro se* litigants, see e.g. United States of America, ex rel. Todd Verdone, pro. per., sui juris, at law, v. Circuit Court for Taylor County, et al., 73 F.3d 669 (7th Cir. 1995).



*Certificate of Service*

I certify hereby that on the 11th Day of July, 2002, I personally served or caused to be served a copy of the attached Government's Motion To Strike "Ex Rel." From Caption, addressed to:

Tatiana Aristova, Esq.  
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*Attorney for petitioner,*

by first class mail service upon counsel.

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